

## WISCONSIN SUPREME COURT

### TABLE OF PENDING CASES

By Cornelia G. Clark, Clerk of Supreme Court

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Wisconsin Supreme Court Case Access: <http://wscca.wicourts.gov>

The following table describes pending cases the Supreme Court has accepted on petition for review, bypass, certification and original jurisdiction.

The cases included for the first time (that is, the most recently accepted cases) are marked with an \* next to the case number. After the Supreme Court decides a case, the date of oral argument or date of submission on briefs is replaced with the date of the Supreme Court decision and abbreviated mandate. That mandate will generally be listed in the table for two months and then the case will be removed from the table.

The information in the table, from left to right, is as follows:

- the case number;
- an abbreviated caption of the case (case name);
- a statement of the issue(s);
- the date the Supreme Court accepted the case;
- the method by which the case came to the Supreme Court: REVW = Petition for review, CERT = Certification, BYPA = Petition to bypass, ORIG = Original Action, WRIT = Petition for supervisory writ, REMD = Remanded from the U.S. Supreme Court;
- the date of oral argument or submission on briefs; or the date of the Supreme Court decision and an abbreviated mandate;
- the Court of Appeals district from which the case came, if applicable; the county;
- the date of the Court of Appeals decision, if applicable;
- whether the Court of Appeals decision is published or unpublished, and, if it is published, the citations to the public domain citation and the official reports for the Court of Appeals decision.

The statement of the issue is cursory and does not purport to be an all-inclusive, precise statement of the issues in the case. Readers interested in a case should determine the precise nature of the issues from the record and briefs filed with the Supreme Court.

The following table covers cases accepted and decisions issued through **June 30, 2006**. Please direct any comments regarding this table to Cornelia G. Clark, Clerk of Supreme Court, P.O. Box 1688, Madison, WI 53701-1688, telephone (608)266-1880.

# APPENDIX

## WISCONSIN SUPREME COURT PENDING CASES

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Case No.	Caption/Issue(s)	SC Accepted	CA Dist/Cty	CA Decision
2003AP421	<u>Dairyland Greyhound Park v. J. Doyle, et al</u>  Does the <u>Wisconsin Constitution</u> , art. IV, § 24, as amended in 1993, and Wis. Stat. § 14.035, prohibit the Governor from entering into agreements for Indian gaming compacts as provided for under the Indian Gaming Regulatory Act, 25 U.S.C. § 2701-02?	01/11/2005 CERT Oral Arg 09/07/2005	4 Dane	---
2003AP1534	<u>Royster-Clark, Inc. v. Olsen's Mill, Inc.</u>  Whether the circuit court's findings regarding the existence of an agreement to orally modify a contract between the parties was erroneous under the provisions of Wis. Stat. 402.201(1)?	09/08/2005 REVV <b>Reversed</b> <b>05/18/2006</b> <b>2006 WI 46</b>	4 Waush	07/27/2005 Unp
2003AP1731	<u>Orion Flight Services, Inc. v. Basler Flight Service</u>  Does aviation fuel qualify as motor vehicle fuel under the Unfair Sales Act, Wis Stat. § 100.30, making it subject to a minimum price markup under the statute?	03/08/2005 REVV <b>Affirmed</b> <b>05/19/2006</b> <b>2006 WI 51</b>	2 Winne	12/21/2004 Pub 2004 WI App 222 277 Wis 2d 819 692 NW2d 804
2003AP1806	<u>Metropolitan Ventures v. GEA Associates, et al</u>  Does the rule set forth in <u>Nodolf v. Nelson</u> , 103 Wis. 2d 656, 309 N.W.2d 397 (Ct. App. 1981) that requires specificity in financing contingency terms, extend beyond real estate to business sale contracts?	12/15/2004 REVV <b>Affirmed and Remanded</b> <b>06/14/2006</b> <b>2006 WI 71</b>	1 Milw	10/28/2004 Pub 2004 WI App 189 276 Wis 2d 625 688 NW 2d 722
2003AP2068	<u>State v. C. Mark</u>  Did the admission, during trial, of the respondent's compelled statements to his parole officer violate the respondent's Fifth Amendment right to remain silent and his Fourteenth Amendment right to due process of law proceedings as incorporated under Wis. Stat. § 980.05(1m); see <u>State v. Lombard</u> , 2004 WI 95, 273 Wis. 2d 538, 684 NW.2d 103, and <u>State v. Zanelli</u> , 223 Wis. 2d 545, 589 N.W.2d 687 (Ct. App 1998)?  Did the circuit court erroneously exercise its discretion when it excluded evidence concerning the conditions of the defendant's probation supervision?	07/28/2005 REVV <b>Affirmed and Remanded</b> <b>06/29/2006</b> <b>2006 WI 78</b>	4 Jeffer	04/29/2005 Pub 2005 WI App 62 280 Wis 2d 436 701 NW2d 598
2003AP2108	<u>Hoida, Inc. v. M&amp;I Midstate Bank, et al</u>  Did the court of appeals err in finding that construction lenders and disbursing agents are immune from subcontractor negligence claims for public policy reasons?	12/15/2004 REVV <b>Affirmed</b> <b>06/13/2006</b> <b>2006 WI 69</b>	4 Porta	10/28/2004 Pub 2004 WI App 191 276 Wis 2d 705 688 NW2d 691
2003AP2177	<u>D. Kontowicz, et al v. American Standard Ins. Co.</u> Consol. w/2003AP2534  Does Wis. Stat. § 628.46, which imposes a 12% interest penalty on an insurer for "overdue payment" of an insurance claim, apply to a third-party personal injury claim against a policy by virtue of its reference to Wis. Stat. § 646.31(2)(d)?	04/06/2005 REVV <b>Reversed</b> <b>05/18/2006</b> <b>2006 WI 48</b>	2 Wauke	02/24/2005 Pub 2005 WI App 22 278 Wis 2d 664 693 NW2d 112

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2003AP2245	<u>D. Steinbach, et al. v. Green Lake Sanitary District</u>  Was an assessment levied against the petitioners' property for public sanitary sewer service properly made within the sanitary district's special assessment power?	01/11/2005 REVV <b>Reversed and Remanded</b> <b>06/06/2006</b> <b>2006 WI 63</b>	2 Green Lake	10/28/2004 Pub 2004 WI App 192 276 Wis 2d 639 688 NW2d 740
2003AP2457	<u>Wisconsin Auto Title Loans, inc. v. K. Jones</u>  Does the Federal Arbitration Act preempt the Wisconsin Consumer Act (WCA) with respect to the unconscionability of a contractual arbitration provision in a consumer contract when the consumer is seeking to invalidate the provisions because it effectively waives the right to a class action of WCA claims under the contract?	09/08/2005 REVV <b>Affirmed</b> <b>05/25/2006</b> <b>2006 WI 53</b>	1 Milw	04/29/2005 Pub 2005 WI App 86 280 Wis 2d 823 696 NW2d 214
2003AP2534	<u>L. Buyatt v. Metro. Property &amp; Casualty Ins. Co., et al</u> Consol. w/2003AP2177  Does Wis. Stat. § 628.46, which imposes a 12% interest penalty on an insurer for "overdue payment" of an insurance claim, apply to a third-party personal injury claim against a policy by virtue of its reference to Wis. Stat. § 646.31(2)(d)?	04/06/2005 REVV <b>Reversed</b> <b>05/18/2006</b> <b>2006 WI 48</b>	2 Wauke	02/24/2005 Pub 2005 WI App 22 278 Wis 2d 664 693 NW2d 112
2003AP2555	<u>M. Landwehr v. B. Landwehr</u>  What is the proper standard of review when determining a motion to modify physical placement in light of Wis. Stat. § 767.24(4)(a)(2) that requires a court to set a placement schedule that maximizes the amount of time a child may spend with each parent, and Wis. Stat. 767.325(1)(b)2 that presumes that the current allocation of physical placement is in the best interest of a child?	06/01/2005 REVV <b>Affirmed</b> <b>06/06/2006</b> <b>2006 WI 64</b>	1 Milw	02/24/2005 Unp
2003AP2628	<u>Racine Harley-Davidson, Inc. v. State of Wis. Div. of Hearings &amp; Appeals</u>  Is "great weight deference" the correct standard of review to the division's interpretation of a statute that it has never before interpreted and the issue is a question of law involving the application of statutory and contract principles?  If "great weight deference" is the correct standard of review, was the division's ruling unreasonable because it directly contravened Wis. Stat. §§ 218.0101(1) and 218.0116(8), and directly contravened the statute's intent, history, and purpose?  Is a manufacturer's modification of a dealer's assigned territory a modification of the parties' "agreement" under Wis. Stat. § 218.0116(8)?	03/08/2005 REVV Oral Arg 11/08/2005	2 Racine	01/26/2005 Pub 2005 WI App 6 278 Wis 2d 508 692 NW2d 670

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Case No.	Caption/Issue(s)	SC Accepted	CA Dist/Cty	CA Decision
2003AP2662	<u>State v. J. Brown</u>  Did the colloquy during the evidentiary hearing for the petitioner, an illiterate 17-year-old charged with three Class B felonies, meet the requirements set forth in <u>State v. Bangert</u> , 131 Wis. 2d 246, 389 N.W.2d 12 (1986) to establish that the petitioner actually understood the elements of the offenses, the consequences of his pleas, and the rights he was waiving?	06/01/2005 REVV Oral Arg 12/06/2005	1 Milw	Summary Disp.
2003AP2668	<u>All Star Rent A Car, Inc. v. DOT</u>  Does the circuit court have competency to proceed where a petition for Wis. Stat. Ch. 227 licensing review fails to name and serve the Division of Hearing and Appeals within 30 days of the agency's decision?  Does a statutory ambiguity exist in Ch. 227 such that the identity of the decision-making agency in motor vehicle dealer licensing could be the WisDOT and, if so, is it reasonable under the circumstances for a litigant to name and serve the WisDOT as a respondent, where the Division of Hearing and Appeals followed notice procedures of Wis. Stat. § 227.48(2) and <u>DOT v. Office of Com'r of Transp.</u> , 159 Wis. 2d 271; 863 N.W.2d 870 (Ct. App. 1990)?	02/09/2005 REVV Oral Arg 09/27/2005	4 Dane	10/28/2004 Pub 2004 WI App 198 276 Wis 2d 793 688 NW2d 681
2003AP2802-CR	<u>State v. D. Roberson</u>  Was trial counsel ineffective for failing to file a motion to suppress the testimony of a police officer identifying the defendant shortly after the defendant's unlawful arrest?	11/11/2005 REVV <b>Affirmed</b> <b>06/30/2006</b> <b>2006 WI 80</b>	1 Milw	09/20/2005 Pub 2005 WI App 195 704 NW2d 302
2003AP2865	<u>The Warehouse II v. State of Wis. Dept. of Transportation</u>  Whether litigation expenses should be awarded under Wis. Stat. § 32.28(1), which allows "fee shifting" in condemnation actions, where the property owner prevailed on its challenge to the condemnor's right to take its property on the ground that the condemnor failed to negotiate in good faith?	12/15/2004 REVV <b>Reversed and Remanded</b> <b>06/06/2006</b> <b>2006 WI 62</b>	2 Winne	11/17/2004 Unp
2003AP2968-CR	<u>State v. C. E. Young</u>  What is the test for determining when and whether a seizure has occurred within the meaning of the State and federal constitutions?  Was the defendant seized when a police officer stopped his squad car in the roadway behind the defendant's parked car, put on his flashing lights, and illuminated a spot light on the defendant's car?  If the defendant was seized while he was sitting in the car, did the police officer have reasonable suspicion to warrant the seizure?  Is the evidence sufficient to support the defendant's conviction for obstructing and resisting?	02/09/2005 REVV Oral Arg 10/11/2005	2 Kenos	12/21/2004 Pub 2004 WI App 227 277 Wis 2d 715 690 NW2d 866

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Case No.	Caption/Issue(s)	SC Accepted	CA Dist/Cty	CA Decision
2003AP3055-CR	<u>State v. R. W. Kelty</u>  Does a defendant waive his or her right to challenge convictions on the ground that the convictions violate the defendant's double-jeopardy rights when the defendant pleads guilty to two criminal offenses that, on their face, appear to be two distinct chargeable offenses?  What is the remedy if, on remand, the defendant is successful in establishing that the two criminal offenses are multiplicitous?	02/09/2005 REVW Oral Arg 09/09/2005	4 Wood	12/21/2004 Unp
2003AP3353	<u>J. Hilton v. DNR</u>  Did the administrative law judge use established legal methodology, exercise administrative expertise, and correctly balance the interests of riparian landowners against the interests of the public?  Was an abatement of boat slip spaces along lakefront property an unconstitutional taking of property without due process?	12/15/2004 REVW Oral Arg 11/09/2005	2 Green Lake	Summary Disp.
2003AP3521	<u>B. Shira v. Reliance National Indemnity</u>  Does an insurer's reducing clause, based upon Wis. Stat. § 632.32(5)(a2), allow for the reduction of uninsured motorist benefits by worker's compensation funds paid into the state treasury because the insured had no dependents?	03/08/2005 REVW Oral Arg 11/08/2005	1 Milw	01/26/2005 Pub 2005 WI App 10 278 Wis 2d 354 691 NW2d 882
2004AP36	<u>T. Huml v. R. Vlazny, et al</u>  Whether a written settlement agreement and release discharging a defendant from civil liability for all past, present and future claims arising out of his or her criminal conduct precludes the crime victim from enforcing a subsequent judgment for unpaid restitution entered after the defendant has been released from probation?	10/14/2005 CERT Oral Arg 03/02/2006 <b>Elkhorn</b>	2 Walw	---
2004AP188	<u>AKG Real Estate v. P. Kosterman, et al</u>  Does the "changed conditions" doctrine operate to involuntarily terminate an expressly granted easement when the easement no longer serves the purpose of the servient estate owner?	01/11/2005 REVW Oral Arg 11/15/2005	2 Racine	12/21/2004 Pub 2004 WI App 232 277 Wis 2d 509 691 NW2d 711
2004AP267	<u>City of Janesville v CC Midwest, Inc.</u>  Does a condemnor meet its obligation to "make available a comparable replacement [business] property" under Wis. Stat. §§ 32.05(8) and 32.19, as set forth in <u>Dotty Dumpling's Dowry v. Community Development Authority</u> , 2002 WI App 200, 257 Wis. 2d 377, 651 NW.2d 1, when it (a) identifies <u>potential</u> replacement business properties, (b) assists the occupant in obtaining renovation cost estimates for properties in which the occupant expresses interest, and (c) tenders the maximum business relocation assistance payment authorized by statute?	04/10/2006 REVW Oral Arg 10/11/2006	4 Rock	02/22/2006 Pub 2006 WI App 21 710 NW2d 713

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2004AP276	<u>D. Zastrow, et al v. Journal Communications, Inc., et al</u>  Whether the six-year statute of limitations in either Wis. Stat. § 893.52 or 893.43 applies to negligent breach of fiduciary duty claims against the trustees of an express trust?  Does the two-year statute of limitations in Wis. Stat. § 893.57, limiting an action for "intentional tort to the person," apply to trustee negligence that cause purely economic injuries?  Does the two-year statute of limitations begin to accrue after the termination of the fiduciary relationship or immediately upon the breach of duty?	10/14/2005 REVV <b>Affirmed</b> <b>06/20/2006</b> <b>2006 WI 72</b>	4 Jefferson	08/31/2005 Pub 2005 WI App 178 286 Wis 2d 416 703 NW2d 673
2004AP319	<u>Northwest Airlines, Inc. v. Wis. DOR, et al</u>  Is the recent Wisconsin legislation creating exemptions that provide significant tax incentives to airline carriers that operate "hub facilities" in Wisconsin unconstitutional under the dormant Commerce Clause of the United States Constitution?	04/06/2005 CERT Oral Arg 12/13/2005	4 Dane	---
2004AP352	<u>1325 North Van Buren v. T-3 Group, et al</u>  Whether the application of the economic loss doctrine is strictly limited to contracts for the purchase and sale of goods governed by Article 2 of the Uniform Commercial Code; see <u>Insurance Company of North American v. Cease Electric</u> , 2004 WI 139, 276 Wis. 2d 361, 688 N.W2d 462, and <u>Van Lare v. Vogt</u> , 2004 WI 110, 274 Wis. 2d 631, 683 N.W2d 46?	10/03/2005 REVV Oral Arg 02/22/2006	1 Milwaukee	06/22/2005 Pub 2005 WI App 121 284 Wis 2d 387 701 NW2d 13
2004AP377	<u>J. Lassa v. T. Rongstad, et al</u>  What balancing test should Wisconsin courts use when deciding whether the identity of anonymous speakers must be disclosed in the context of a defamation action brought by a public official?  When a Wisconsin court has applied the appropriate balancing test and concluded that discovery should be allowed, can a litigant who refuses to comply assert that he or she should not be sanctioned based on <u>Burnett v. Alt</u> , 224 Wis. 2d 72, 589 N.W.2d 21 (1999)?	03/08/2005 CERT Oral Arg 11/09/2005	4 Dane	---
2004AP468	<u>Burbank Grease Services v. L. Sokolowski</u>  Does Wis. Stat. § 134.90(6) preempt the common law cause of action for breach of fiduciary duty?  Does the disclosure of confidential, proprietary computer data constitute a disclosure of "restricted access information" within the meaning of Wis. Stat. § 943.70(2) (a) 6?	05/11/2005 REVV Oral Arg 12/02/2005	4 Dane	02/25/2005 Pub 2005 WI App 28 278 Wis 2d 698 693 NW2d 89

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Case No.	Caption/Issue(s)	SC Accepted	CA Dist/Cty	CA Decision
2004AP548-W	<u>State ex rel. M. Coleman v. G. McCaughtry, et al</u>  Did the court of appeals violate due process by applying the doctrine of laches to the petitioner's habeas corpus petition without an evidentiary hearing, where material issues of fact remain in dispute and the record is inconclusive regarding the unreasonableness of delay and the prejudice caused to the State?	03/08/2005 REVV <b>Reversed</b> <b>05/18/2006</b> <b>2006 WI 49</b>	4 Rock	Memo Opn.
2004AP583	<u>State ex rel. F. Pharm v. B. Bartow</u>  Whether the Interstate Agreement on Detainers Act (IAD or the "Act") permits the State of Wisconsin to retain custody of an out-of-state prisoner for an indefinite civil commitment under Wis. State. Ch. 980 when that prisoner has completed a mandatory period of confinement under a Wisconsin criminal sentence and remains subject to the legal supervision of the criminal corrections authorities of the state that transferred temporary custody of the prisoner to Wisconsin pursuant to the Act?	03/01/2006 REVV Oral Arg 09/07/2006	2 Winne	10/28/2005 Pub 2005 WI App 215 287 Wis 2d 663 706 NW2d 693
2004AP767	<u>Robin K. v. Lamanda M.</u>  What is the applicable standard to be used by the trial court to award guardianship of a child to a non-parent over a parent's objection?	02/09/2005 REVV <b>Affirmed</b> <b>06/13/2006</b> <b>2006 WI 68</b>	4 Sauk	12/21/2004 Unp
2004AP803-CR	<u>State v. J. Campbell</u>  Whether the holding in <u>State v. Bouzek</u> , 268 Wis. 2d 642, 484 N.W2d 362 (Ct. App. 1992) is correct in recognizing a fraud exception to the general rule that bars a collateral attack against an order or judgment of another judicial body in the context of a criminal proceeding?  If so, (1) is the fraud exception properly limited to jurisdictional fraud; (2) does the "clean hands" doctrine apply; and (3) what are the respective roles of the circuit court and the jury when addressing a fraud exception?	08/25/2005 CERT Oral Arg 01/11/2006	2 Walw	---
2004AP914-CR	<u>State v L. Teipelman</u>  In a motion for resentencing based upon the circuit court's alleged reliance upon inaccurate information at sentencing, does the movant need to prove actual reliance by the court or prejudicial reliance?  For sentencing purposes, is there a distinction between reliance on prior convictions and charged facts that did not result in convictions?	12/14/2005 REVV <b>Reversed and Remanded</b> <b>06/09/2006</b> <b>2006 WI 66</b>	4 Richl	08/31/2005 Pub 2005 WI App 179 286 Wis 2d 464 703 NW2d 683

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2004AP1029-CR	<u>State v. T. Payano-Roman</u>  Was the administration of laxatives to the defendant to move suspected drugs through the defendant's body a private action by medical personnel or a search by state actors? If the administration of laxatives was a state-sponsored search, what factors should be utilized to analyze the reasonableness of the search and was the administration of laxatives reasonable under those factors? If the administration of laxatives is determined to have been an unreasonable search, does the doctrine of inevitable discovery nonetheless allow the admissibility of the evidence obtained from the search?	10/03/2005 REVW <b>Reversed</b> <b>05/18/2006</b> <b>2006 WI 47</b>	1 Milw	06/22/2005 Pub 2005 WI App 118 284 Wis 2d 350 701 NW2d 72
2004AP1252	<u>J. Mair v. Trollhaugen Ski Resort, et al</u>  Whether Wis. Stat. § 893.89, statute of repose, applies to "safe place" claims brought under Wis. Stat. § 101.11 for injuries allegedly arising out of structural defects in a premise?  Is there a difference between "structural defects" and "unsafe conditions associated with a structure" for purposes of the application of Wis. Stat. § 893.89 to Wis. Stat. § 101.11 requiring that Wis. Stat. § 893.89 bar a safe place claim that arises after an exposure period if it is based on a "structural defect" but not if it is based on an "unsafe condition" associated with the structure?	10/14/2005 REVW <b>Affirmed</b> <b>06/06/2006</b> <b>2006 WI 61</b>	3 Polk	06/22/2005 Pub 2005 WI App 116 283 Wis 2d 722 699 NW2d 624
2004AP1358	<u>J. Vieau v American Family Mutual Ins. Co, et al</u>  Does <u>Mau v. North Dakota Ins. Reserve Fund</u> , 2001 WI 134, 248 Wis. 2d 1031, 637 N.W.2d 45 overrule <u>Peabody v American Family Mutual Ins. Co.</u> , 220 Wis. 2d 340, 582 N.W.2d 753 (Ct. App. 1998) in the application of indemnity policies under Wis. Stat. § 632.32(6)(b)(1)?  Did the court of appeals err in applying § 632.32(5)(e) to this case due to the public policy reasons asserted in <u>Peabody</u> ?	05/11/2005 REVW <b>Affirmed</b> <b>04/19/2006</b> <b>2006 WI 31</b>	3 Brown	02/24/2005 Pub 2005 WI App 34 278 Wis 2d 683 693 NW2d 127
2004AP1359	<u>K. Yorgan v. T. Durkin</u>  Did the defendant, an attorney, fail to fulfill a contractual obligation by refusing to pay for services provided to the attorney's client by the petitioner, a chiropractor, because the attorney never signed the "authorization and doctor's lien" signed by the attorney's client?	06/01/2005 REVW <b>Affirmed</b> <b>06/02/2006</b> <b>2006 WI 60</b>	2 Racine	12/21/2004 Unp
2004AP1435-CR	<u>State v. T. Booker</u>  Is circumstantial evidence, such as testimony of a minor witness and that of a police detective describing the contents of pornographic videotapes, sufficient to convict a defendant of exposing harmful materials to minors under Wis. Stat. § 948.11?	10/14/2005 REVW <b>Reversed</b> <b>06/29/2006</b> <b>2006 WI 79</b>	1 Milw	08/31/2005 Pub 2005 WI App 182 704 NW2d 336

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2004AP1513	<u>A. Welin v. American Family Mutual ins. Co., et al</u>  Does a policy definition of "underinsured motor vehicle" constitute a reducing clause that is prohibited by Wis. Stat. § 632.32(4m) and 5(i) if it compares the UIM limits to the limits of the tortfeasor's policy without taking into account the amount available to the insured from the tortfeasor's policy after payment to other injured parties?  Does the definition of an underinsured vehicle as one where the tortfeasor has liability limits less than the UIM limits result in illusory coverage where there are multiple claimants such that the UIM insured will never recover the limits of the tortfeasor's policy?  Is a comparison of the tortfeasor's liability limits to the UIM limits in order to trigger UIM coverage different than a comparison of the tortfeasor's "insurance coverage" to the UIM limits?	08/25/2005 REVV <b>Reversed and Remanded</b> <b>06/30/2006</b> <b>2006 WI 81</b>	3 Chippewa	06/22/2005 Unp
2004AP1519-CR	<u>State v. V. Brockdorf</u>  Does <u>Garrity v. New Jersey</u> , 385 U.S. 493 (1967) require suppression of an incriminating statement where the defendant is a police officer and has an allegedly reasonable subjective belief that she must make the statement or lose her job?	03/08/2005 REVV <b>Affirmed</b> <b>06/28/2006</b> <b>2006 WI 76</b>	1 Milw	01/26/2005 Unp
2004AP1793	<u>S. Drinkwater v. American Family Mutual Ins. Co., et al</u>  Should the choice-of-law and subrogation provisions in a health insurance policy issued by an Iowa employer to a Wisconsin resident be given effect in a Wisconsin tort case, without regard to Wisconsin's "made whole" doctrine?	11/11/2005 CERT <b>Affirmed</b> <b>06/01/2006</b> <b>2006 WI 56</b>	4 Grant	---
2004AP1877	<u>G. Richards v. First Union Securities, Inc.</u>  What evidence must a defendant produce in order to vacate a default judgment for insufficient service of process on a corporation under Wis. Stat. § 801.11(5)(a), especially with respect to whether an individual is a "managing agent" of the corporation?  Who bears the burden of persuasion that service was inadequate and how does that burden interact with the rule that a circuit court judgment is void if service was not properly effected? <u>See Emery v. Emery</u> , 124 Wis. 2d 613, 369 N.W.2d 728 (1985); <u>West v. West</u> , 82 Wis. 2d 158, 262 N.W.2d 87 (1978); <u>Danielson v. Brody Seating Co.</u> , 71 Wis. 2d 424, 238 N.W.2d 531 (1976)?  May an appellate court "address and litigate" a mixed issue of law and fact on appeal without violating a party's due process rights?	11/15/2005 REVV <b>Reversed and Remanded</b> <b>05/31/2006</b> <b>2006 WI 55</b>	2 Wauke	07/27/2005 Pub 2005 WI App 164 284 Wis 2d 530 702 NW2d 45

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## WISCONSIN SUPREME COURT PENDING CASES

By Cornelia G. Clark, Clerk of Supreme Court  
(608) 266-1880

Case No.	Caption/Issue(s)	SC Accepted	CA Dist/Cty	CA Decision
2004AP1991	<u>T. Butler, et al v. Advanced Drainage Systems, et al</u>  Did the court of appeals violate the <u>Palsgraf v. Long Island R.R. Co.</u> , 248 N.Y. 339, 162 N.W. 99 (1928)(Andrews, J., dissenting) dissent principles by concluding that the defendants may owe a duty of ordinary care to some parties, but not to others?  If not, did the court of appeals err in its application of the Restatement (2d) of Torts § 324A to the facts of this case?	09/08/2005 REVV Oral Arg 01/12/2006	3 Washb	05/25/2005 Pub 2005 WI App 108 282 Wis 2d 776 698 NW2d 117
2004AP2004	<u>R. Borst, et al v. Allstate Insurance Co.</u>  Under Wis. Stat. § 788.10(1)(b) (2003 – 04), can “evident partiality,” due to a relationship between an arbitrator and a party be avoided by full disclosure at the outset and declaration of impartiality?  Is there a presumption of impartiality among all arbitrators which may be “sidestepped” only by explicit agreement of all parties by which they may select arbitrators who in effect are their advocates?  Other than the deposition procedure outlined in Wis. Stat. § 788.07, is the nature and extent of discovery during the arbitration process governed by contract, the arbitrators’ inherent authority, or a combination of the two?	01/20/2006 CERT  <b>Reversed and Remanded 06/13/2006 2006 WI 70</b>	2 Kenos	---
2004AP2010-CR	<u>State v. L. Anderson</u>  Is a defendant entitled to a new trial where requests to review evidence by a jury in deliberation were not met by the trial court nor communicated to the parties’ counsel until after verdict?	12/14/2005 REVV  <b>Reversed and Remanded 06/29/2006 2006 WI 77</b>	1 Milw	11/30/2005 Pub 2005 WI App 238 707 NW2d 159
2004AP2035-CR	<u>State v. D. Smith</u>  Did the trial court properly deny a motion to strike a juror for cause (objective bias) when, during voir dire, the juror stated that she is an administrative assistant in the district attorney’s office prosecuting the case?	05/11/2005 REVV  <b>Affirmed 06/27/2006 2006 WI 74</b>	1 Milw	02/24/2005 Unp
2004AP2065	<u>J. Hanson v. American Family Mutual ins. Co., et al</u>  In an auto accident case, is the defendant’s liability for medical expenses for surgery, admittedly well-done but allegedly not necessitated by any injury incurred in the auto accident, determined under the same standard utilized when surgery necessitated by an injury incurred in the auto accident was negligently performed, thus aggravating the injury?	01/20/2006 REVV Oral Arg 04/25/2006	1 Milw	12/21/2005 Unp

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Case No.	Caption/Issue(s)	SC Accepted	CA Dist/Cty	CA Decision
2004AP2318	<u>First American Title Ins. Co. v. D. Dahlmann</u>  Does a landowner's unintentional encroachment onto adjacent property result in a defect in or unmarketability of the landowner's title?  Does the landowner's title insurance company's deletion of certain exceptions (including the standard "survey exception") from its title insurance policy result in coverage for damages to the landowner's title?	01/20/2006 REVV  <b>Reversed and Remanded 06/07/2006 2006 WI 65</b>	4 Dane	11/30/2005 Unp
2004AP2322	<u>M. Sondag, et al v Dave Kohel Agency, Inc.</u>  Is a real estate broker entitled to a broker's commission under a listing contract when the listed real estate is condemned and acquired by a governmental agency during the listing?  If the real estate listing contract permits recovery of a broker's commission in a condemnation, does public policy preclude such payment?	10/14/2005 CERT Oral Arg 04/27/2006	2 Kenos	---
2004AP2468	<u>Wis. DOR v. River City Refuse Removal, Inc.</u>  Is a subsidiary corporation liable for sales and use tax normally imposed upon acquisitions by one corporation from another of taxable vehicles where the acquisitions were made from other subsidiary corporations without consideration in nonmercantile transactions?  Did the Wisconsin Tax Appeals Commission correctly reverse the Department of Revenue's assessed negligence penalty for a subsidiary's failure to pay tax upon four other categories of items in addition to the vehicles?	05/09/2006 REVV Oral Arg 10/13/2006	4 Dane	03/22/2006 Pub 2006 WI App 34 712 NW2d 351
2004AP2481-CR	<u>State v. M. Jensen</u>  Did the circuit court err in holding that the victim's voicemail statements to a police officer and a letter she wrote to the police department were testimonial under <u>Crawford v. Washington</u> , 124 S. Ct. 1354 (2004), and therefore inadmissible at the defendant's murder trial?  If the voicemail message and letter are testimonial, should this evidence nevertheless be admitted at the defendant's murder trial under the doctrine of forfeiture by wrongdoing, if the State, outside the jury's presence, can convince the circuit court by a preponderance of the evidence that the defendant killed his wife?  Did the circuit court err in holding that the victim's statements to her neighbors and her son's teacher were not testimonial and therefore admissible at trial?  If the statements are testimonial, is the State entitled to a pretrial hearing on whether the statements may be admitted under the doctrine of forfeiture by wrongdoing?	07/28/2005 BYPA Oral Arg 01/11/2006	2 Kenos	---

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Case No.	Caption/Issue(s)	SC Accepted	CA Dist/Cty	CA Decision
2004AP2582	<u>Jackson County v. DNR, et al</u> (Consol. w/2005AP545)  Can a county, after taking a tax deed to assume ownership of property on which taxes had not been paid, rescind the tax deed and return the property to the original owner without that owner's consent?	11/11/2005 CERT Oral Arg 03/02/2006 <b>Elkhorn</b>	4 Dane	---
*2004AP2588	<u>C. Aslakson v. Gallagher Bassett Services, Inc.</u>  Does Wis. Stat. § 102.81(1)(a) preempt bad faith claims by an uninsured employee against the contract administrator for the State Uninsured Employer's Fund (UEF), or may an uninsured employee bring a tort claim against the administrator for bad faith denial of a worker's compensation claim?	06/14/2006 REVW	4 Dane	03/22/2006 Pub 2006 WI App 35 711 NW2d 667
2004AP2592	<u>R. Bartholomew, et al v. Wis. Patients Compensation Fund, et al</u>  May an estate recover non-economic damages for the decedent's pre-death pain and suffering in addition to the surviving spouse's wrongful death and loss of society damages?	12/14/2005 REVW Oral Arg 04/05/2006	2 Kenos	Summary Disp.
2004AP2655	<u>S. Teitsworth, et al v. Harley-Davidson Inc. et al</u>  May a circuit court reopen an action to permit further proceedings and amendment of a complaint to assert new theories of liability following remittitur from this court affirming the dismissal of the case, but where the court's decision set forth other available remedies; see <u>Teitsworth v. Harley-Davidson, Inc.</u> , 2004 WI 32, 270 Wis. 2d 146, 677 N.W.2d 233?	02/27//2006 REVW Oral Arg 09/07/2006	1 Milw	01/25/2006 Pub 2006 WI App 5 709 NW2d 901
2004AP2746	<u>Affordable Erecting, Inc. v. Neosho Trompler, Inc.</u>  Is a party equitably estopped from re-filing a court action by withholding approval of a mediation agreement when another party relied upon their inaction as approval of the agreement?	09/08/2005 REVW <b>Affirmed</b> <b>06/09/2006</b> <b>2006 WI 67</b>	2 Wash	08/31/2005 Pub 2005 WI App 189 703 NW2d 737
2004AP2820-CR	<u>State v. R. Walker</u>  Must a defendant who has filed a motion for sentence modification under Wis. Stat. § (Rule) 809.30 and then is resentenced pursuant to that motion, file a second motion for sentence modification in the circuit court prior to taking an appeal to the court of appeals or does the resentencing constitute "compelling circumstances" so as to avoid the necessity for filing a second motion for sentence modification?  What is the impact of Wis. Stat. §§ (Rule) 809.30(2)(b), 809.30(2)(h), and 809.30(2)(j) on the issue of the need to file a second motion for sentence modification under these facts?	10/03/2005 REVW <b>Modified,</b> <b>Affirmed,</b> <b>Remanded</b> <b>06/30/2006</b> <b>2006 WI 82</b>	2 Green Lake	Summary Disp.

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Case No.	Caption/Issue(s)	SC Accepted	CA Dist/Cty	CA Decision
2004AP2936-CR	<u>State v. B. Hibi</u>  Does <u>State v. Dubose</u> , 2005 WI 126; ____ Wis. 2d ____; 699 N.W. 2d 582 control the admissibility of an eyewitness identification resulting from procedures other than "inherently suggestive" showups?  Does <u>Dubose</u> implicitly overrule the court's decision in <u>State v. Marshall</u> , 92 Wis. 2d; 284 N.W. 2d 592 (1979)?  Did the Court of Appeals err in taking judicial notice of facts derived from a source "subject to reasonable dispute" under Wis. Stat. § (Rule) 902.01(2)?	12/14/2005 REVW <b>Reversed and Remanded</b> <b>05/26/2006</b> <b>2006 WI 52</b>	2 Wauke	10/28/2005 Pub 2005 WI App 228 706 NW2d 134
2004AP2989-CR	<u>State v. S. Fisher</u>  Whether the concealed weapon statute can be enforced against a tavern owner who keeps a loaded gun in the glove compartment of his car for protection because he routinely makes large cash deposits in a high-crime neighborhood?	10/14/2005 CERT <b>Reversed and Remanded</b> <b>05/17/2006</b> <b>2006 WI 44</b>	4 Jacks	---
2004AP3238	<u>Brew City Redevelopment Group, LLC v. The Ferchill Group</u>  Is there a malevolent action exception to the economic-loss doctrine?  Can a plaintiff pursue a tortious interference with contract claim against persons affiliated with and acting on behalf of an LLC without alleging that the individuals acted out of a personal motive inconsistent with the LLC's interest?  Does the intra-corporate conspiracy doctrine of <u>Copperweld v. Independence Tube Corp.</u> , 467 U.S. 752 (1984) preclude a conspiracy claim against persons affiliated with and acting on behalf of an LLC?	05/09/2006 REVW Oral Arg 10/13/2006	1 Milw	03/22/2006 Pub 2006 WI App 39
*2004AP3285-CR	<u>State v. G. Kasmarek</u>  Was the sentence imposed by the circuit court unduly harsh under the totality of the circumstances of this case although the sentence is within the limits of the maximum sentence that could have been imposed?	06/14/2006 REVW	2 Wauke	Summary Disp.
2004AP3384	<u>B. Spiegelberg v. State of Wisconsin, et al</u>  Where a property in a partial taking consists of multiple contiguous parcels, is the property valued at (1) fair market value of the property as a whole, or (2) the sum of the fair market value of each individual tax parcel?	12/14/2005 CERT <b>Affirmed</b> <b>06/27/2006</b> <b>2006 WI 75</b>	Winne	---

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Case No.	Caption/Issue(s)	SC Accepted	CA Dist/Cty	CA Decision
2005AP2-NM	<u>Kenosha County Dept. of Human Services v. Jodie W.</u>  Whether failure to meet an impossible condition of review is an appropriate and constitutional ground for termination of parental rights?  Whether an agency satisfies its duty to make a "reasonable effort" to provide court ordered services when the services it provides necessarily do not contribute to a parent's ability to meet a condition of return, and where the parent's accompanying failure to meet that condition is used as the grounds for the termination of parental rights?  Whether a circuit court errs in accepting a no contest plea as "knowing" when it is given in an internally inconsistent plea questionnaire or plea colloquy that indicates that the parent has certain alternatives that she does not in fact have, or waives other rights she clearly intends to reserve?  Whether the court of appeals erred when it refused to toll the time period set forth in Wis. Stat. § (Rule) 809.107(6)(e)?  Whether the circuit court or the court of Appeals erred in refusing to allow the parent an opportunity to present additional evidence to demonstrate her early release or her fitness as a parent?	12/14/2005 REVV Oral Arg 03/21/2006	2 Kenos	Summary Disp.
2005AP48-CR	<u>State v. S. Daley</u>  Whether the court of appeals' decision in this case conflicts with binding precedent established in <u>State v. Barney</u> , 213 Wis. 2d 344, 570 N.W.2d 731 (Ct. App 1997)? (The matter is remanded to the court of appeals for further proceedings in light of <u>Barney</u> . Proceedings in this court are held in abeyance pending remand, this court retains jurisdiction)	03/16/2006 REVV <b>Dism.</b> <b>05/09/2006</b>	3 Oconto	12/21/2005 Pub 2005 WI App 260 710 NW2d 904
*2005AP81-CR	<u>State v. S. Muckerheide</u>  Did the court of appeals err in applying the "Other Acts" standards under Wis. Stats. § 904.04 to the defendant's proffered evidence; see <u>State v. Johnson</u> , 184 Wis. 2d 324, 516 N.W.2d 463 (Ct. App 1994), <u>State v. Gray</u> , 225 Wis. 2d 39, 590 N.W.2d 918 (1999), and <u>State v. Sullivan</u> , 216 Wis. 2d 768, 576 N.W.2d 30 (1998)?	06/14/2006 REVV	1 Milw	04/26/2006 Unp

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Case No.	Caption/Issue(s)	SC Accepted	CA Dist/ Cty	CA Decision
2005AP87	<u>State ex rel. S. Heimerman v. G. McCaughtry</u>  Does the court of appeals have the authority to restrict future filings in the circuit courts by an individual against whom there are unsatisfied sanctions for filing frivolous actions?  If so, should there be an exception for new filings in which the court determines that the individual is in imminent danger of serious physical injury? See Wis. Stat. § 801.02(7)(d) (2003-04).  May the court of appeals (or the circuit court) refuse to accept for filing a case because of unpaid sanctions in a different case in any state court?  May the court of appeals or the circuit court refuse to accept for filing a case because of unpaid sanctions in federal court?	02/27/2006 CERT	4 Dane	---
2005AP121	<u>L. Mueller v. McMillan Warner Ins Co., et al</u>  What standard of care must be provided to an injured individual at or near the scene of an accident to qualify a caregiver for immunity from civil liability under Wis. Stat. § 895.48(1), the "Good Samaritan" statute?  What constitutes "emergency care" for purposes of Wis. Stat. § 895.48(1)?	10/14/2005 REVW <b>Affirmed</b> <b>05/25/2006</b> <b>2006 WI 54</b>	3 Mara	09/20/2005 Pub 2005 WI App 210 704 NW2d 613
2005AP189	<u>Industrial Roofing Services, Inc. v. R. Marquardt, et al</u>  Did the circuit court erroneously exercise its discretion when it sanctioned the plaintiff for discovery violations by dismissing the plaintiff's complaint without prejudice and conditioning re-filing on payment of attorneys fees and a demonstration as to the viability of the complaint's allegations within 60 days, when the plaintiff's attorney admitted that the discovery violations were caused by his own failings managing his law practice due to his personal problems?	04/10/2006 REVW Oral Arg 09/07/2006	2 Wauke	01/25/2006 Unp
*2005AP302-CR	<u>State v. B. Jenkins</u>  Did the court of appeals fail to follow the proper standard for reviewing decisions on pre-sentence motions for plea withdrawal; see <u>State v Canedy</u> , 161 Wis. 2d 565, 469 N.W2d 163 (1991)?	06/14/2006 REVW	1 Milw	02/22/2006 Pub 2006 WI App 28 710 NW2d 502
2005AP323	<u>Wisconsin Mall Properties v. LLC Younkers, Inc.</u>  Can a condemnation action against real property and the sale/leaseback lease extinguish the parties' contractual rights and obligations where there is an express agreement that contractual rights would survive condemnation?  If contractual rights and obligations survive condemnation, does the injured party have only limited recourse against the government entity condemning the property and lease?	01/20/2006 REVW Oral Arg 04/27/2006	3 Brown	12/21/2005 Pub 2005 WI App 261 707 NW2d 886

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2005AP423	<u>K. McNeil v. B. Hansen, et al</u>  Whether the facts constitute "operation of a motor vehicle" as that term is used in Wis. Stats. ss 102.03(2), so that the injured co-employee is not limited to the exclusive remedy of the workers compensation laws?	05/09/2006 CERT Oral Arg 10/13/2006	1 Milw	---
2005AP508	<u>Adams Outdoor Advertising, Ltd. V. City of Madison</u>  In the absence of a recent sale of a subject property and sales of other reasonably comparable properties, does the law require a taxing authority to use the "cost less depreciation" method instead of the "income" method when valuing an outdoor advertising sign for personal property tax purposes?  Should the appraisal methods used in eminent domain cases be recognized in personal property tax assessment cases?  Should the "inextricably intertwined" approach used in real estate tax assessment cases be recognized in personal property tax assessment cases?  Is a permit authorizing the location of an outdoor advertising sign an "intangible" within the meaning of Wis. Stat. § 70.112(1) and therefore an exempt factor for purposes of personal property tax assessment?  Does the Uniformity Clause, article VIII, section 1 of the Wisconsin Constitution and the language of <u>State ex rel. Baker Manufacturing Co. v. City of Evansville</u> , 261 Wis. 599, 53 N.W.2d 795 (1952), require that similar property be assessed under the same methodology or merely require that the fraction of the value taxed be the same?	01/20/2006 CERT Oral Arg 04/26/2006	4 Dane	---
*2005AP534	<u>H. Frisch v. R. Henrichs</u>  What is the appropriate remedy for violations of Wis. Stat. § 767.27(2m)?  Is Wis. Stat. § 806.07 a more appropriate remedy than contempt for correcting child support orders premised on fraudulent or undisclosed income information?  If a child support order is vacated under Wis. Stat. § 806.07 because it was premised on fraudulent or undisclosed income, does Wis. Stat. § 767.32(1m) prevent the court from ordering retroactive child support?	06/14/2006 REVW	2 Wauke	04/26/2006 Pub 2006 WI App 64 713 NW2d 139
2005AP544	<u>DaimlerChrysler c/o ESIS v. LIRC, et al</u>  Whether the Wisconsin Labor and Industry Review Commission (LIRC) may interpret Wis. Admin. Code § DWD 80.32(4) (9/2005) to stack minimum permanent partial disability assessments for successive ligament repair procedures, where the resulting award is higher than the highest medical estimate of permanent partial disability in evidence?	03/16/2006 CERT Oral Arg 09/13/2006	2 Kenos	----

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Case No.	Caption/Issue(s)	SC Accepted	CA Dist/Cty	CA Decision
2005AP545	<u>Jackson County v. DNR, et al</u> (Consol. w/2004AP2582)  Can a county, after taking a tax deed to assume ownership of property on which taxes had not been paid, rescind the tax deed and return the property to the original owner without that owner's consent?	11/11/2005 CERT Oral Arg 03/02/2006 <b>Elkhorn</b>	4 Dane	---
2005AP573-CR	<u>State v. G. Johnson</u>  Did the court of appeals err in holding that a protective search of the defendant's car was unconstitutional after officers had observed him making allegedly furtive movements in his car and after the defendant had fallen each time the officer neared a particular pant pocket during a pat-down?	04/11/2006 REVV Oral Arg 09/13/2006	2 Racine	01/25/2006 Pub 2006 WI App 15 709 NW2d 491
2005AP584-CR	<u>State v. J. Brown</u>  What standard of review should appellate courts apply when reviewing circuit court decisions reconfining individuals to prison following revocation of extended supervision?  Did the circuit court fail to exercise discretion in denying a motion for reconsideration which sought to explain the Department of Corrections' process in making reconfinement recommendations?	05/09/2006 REVV Oral Arg 10/12/2006	1 Milw	3/23/2006 Pub 2006 WI App 44 712 NW2d 899
2005AP661-CRNM	<u>State v. M. Parent</u>  What procedure and factors are to be considered when deciding whether a defendant should receive a copy of a presentence investigation report (PSI) to facilitate his or her response to a no-merit report and to decide whether motions filed by the state seeking access to a PSI should be filed in the court of appeals or in the circuit court?	05/09/2006 CERT Oral Arg 10/11/2006	3 Eau Claire	---
2005AP685	<u>Acuity Mutual Ins. Co. v. M. Olivas</u>  When determining whether a worker is an employee or an independent contractor for the purpose of setting a premium under a worker's compensation insurance policy, does the specific statutory definition of "independent contractor" set forth in Wis. Stat. § 102.07(8)(b) control, or does the common law test control?	04/10/2006 REVV Oral Arg 09/12/2006	2 Sheb	03/22/2006 Pub 2006 WI 45 712 NW2d 374
2005AP948-CR	<u>State v. J. Bonds</u>  Does Wis. Stat. § 973.12 require the state to allege the specific prior convictions used as the basis of a repeater allegation before or at arraignment and before a plea acceptance?  Can Consolidated Court Automation Programs (CCAP) records form the basis of proof beyond a reasonable doubt for a repeater allegation?	12/14/2005 REVV <b>Reversed and Remanded</b> <b>06/30/2006</b> <b>2006 WI 83</b>	1 Milw	10/28/2005 Unp

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2005AP995	<u>M. Kasten v. Doral Dental USA, LLC</u>  Whether Wis. Stat. § 183.0405 (2003-04), part of the Wisconsin Limited Liability Company Law (WLLCL), grants a broad right of member access to limited liability company records that, absent contrary language in the LLC operating agreement, embraces informal and non-financial records?  If the court determines that the statute grants members a broad inspection right, whether e-mails can be classified as "records" under Wis. Stat. § 183.0405(2) such that they are subject to a member's inspection?	05/09/2006 CERT	2 Ozauk	---
2005AP1189-CR	<u>State v. M. Lackershire</u>  Whether during a plea colloquy a circuit court is required to inform the defendant that certain counts dismissed pursuant to a plea agreement will be "read-in" at sentencing and the effect of such a read-in?  Must a defendant have actual knowledge and understanding of the dismissed offenses and the consequences of the read-in procedure?  When a defendant moves to withdraw a plea and has testified as to a misunderstanding of the nature of the charged offense, is the state required to present affirmative evidence to support the circuit court's denial of the motion for plea withdrawal?  Does the belief by a pregnant defendant who entered a plea with the understanding that she could not medically endure a trial without risking her health or the health of her unborn child and that she could not get an adjournment of the trial date prove that her plea was not voluntary and entitle her to withdraw the plea?	02/27/2006 REVV Oral Arg 09/12/2006	3 Pepin	12/21/2005 Pub 2005 WI App 265 707 NW2d 891
2005AP1407	<u>Estate of F. Rille, et al v. Physicians Ins. Co., et al</u>  In light of the decision in <u>Precision Erecting, Inc. v. M&amp;I Marshall &amp; Ilsley Bank</u> , 224 Wis. 2d 288, 592 N.W.2d 5 (Ct. App 1998), what is the extent of a tort litigant's responsibility to appear and object to a motion for summary judgment filed against another party to the tort action, but not against the litigant, when the litigant seeks to preserve a potential claim for contribution against a party to the motion?	05/09/2006 CERT Oral Arg 10/11/2006	2 Wauke	---
2005AP1485-CR	<u>State v. R. Lord, Jr.</u>  Was a defendant's counsel ineffective for failing to establish the authenticity of a state issued temporary license plate which was the basis for law enforcement officers' traffic stop of the defendant's vehicle?	05/09/2006 REVV Oral Arg 10/12/2006	1 Milw	02/22/2006 Unp
2005AP1516-CR	<u>State v. D. Bruski</u>  Were the defendant's rights to be free from unreasonable searches violated when the police searched his travel case without a warrant while investigating his unexplained presence in a vehicle?	04/10/2006 REVV Oral Arg 09/13/2006	3 Doug	03/22/2006 Pub 2006 WI App 53 711 NW2d 679

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2005AP1874	<u>K. Wambolt, et al v. West Bend Mutual Ins. Co., et al</u>  Whether a "memorandum decision" granting summary judgment is the final order or judgment for purposes of appeal?	04/11/2006 REVV	3 Burn	Memo Opn.
*2005AP2315	<u>H. Lornson, et al v. N. Siddiqui, et al</u>  Whether, in light of <u>Rineck v Johnson</u> , 155 Wis. 2d 659, 456 N.W.2d 336 (1990) and <u>Storm v. Legion Insurance Co.</u> , 203 WI 120, 265 Wis. 2d 169, 665 N.W.2d 353, two cases discussing the exclusivity of ch. 655, Wis. Stats. (2003-04), a surviving spouse's wrongful death claim in a medical malpractice case survives his or her own death such that his or her personal representatives have standing to pursue the claim?	06/14/2006 CERT	2 Winne	---
2005AP2336	<u>G. Tyler v. The Riverbank</u>  Is a circuit court's denial of post-trial motions a final order for purposes of timely filing an appeal?	05/09/2006 REVV	3 Polk	Memo Opn.
2005AP2656	<u>Oneida County Dept. of Social Services v. Nicole W.</u>  Is a partial summary judgment appropriate where the ground for terminating parental rights is a previous termination of rights to another child where the previous termination was by default judgment?	05/09/2006 REVV	3 Oneida	03/22/2006 Unp
2005AP2752	<u>State v Shirley E.</u>  Does a parent who has been defaulted in a TPR hearing maintain the substantive due process right to be represented by counsel throughout the remainder of litigation in the case?	05/09/2006 REVV Oral Arg 10/12/2006	1 Milw	03/22/2006 Pub 2006 WI App 55 711 NW2d 690
*2005AP3141	<u>City of Milwaukee v. R. Washington</u>  Did the circuit court abuse its discretion in confining the respondent to county jail facilities for tuberculosis treatment under Wis. Stat. § 252.07(9) and in rejecting the alternative of guarded placement in a hospital because of the associated costs?  Was remedial contempt available as a sanction for the circuit court to incarcerate the respondent for tuberculosis treatment until health authorities certified that the respondent was cured?	06/14/2006 REVV	1 Milw	05/31/2006 Pub 2006 WI App 99

**NOTE:** The statement of the issue is cursory and does not purport to be an all-inclusive, precise statement of the issues in the case. Readers interested in a case should determine the precise nature of the issues from the record and briefs filed with the Supreme Court.